

MSA 841625

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6/10/63 625

STATE OF MARYLAND



2-4-6-21

841625

COMMISSION TO REVISE THE ANNOTATED CODE

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October 27, 1980

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REPORT ON HOUSE BILL 1

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HEALTH OCCUPATIONS ARTICLE

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I. PURPOSE AND SCOPE OF CODE REVISION.

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The proposed Health Occupations Article (HB 1) is a product of the continuing revision of the Annotated Code of Maryland undertaken by the Commission to Revise the Annotated Code. This process was inaugurated during the First Extraordinary Session of 1973 and to date has resulted in the enactment of ten new major articles: Agriculture, Commercial Law, Corporations and Associations, Courts and Judicial Proceedings, Education, Estates and Trusts, Financial Institutions, Natural Resources, Real Property, and Transportation.

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Each of these articles was a formal bulk revision as mandated by the guidelines established in 1970, and included an improved organization, elimination of obsolete or unconstitutional provisions, resolution of inconsistencies and conflicts in the law, correction of inadvertent gaps or omissions in the law, deletion of repetitive or otherwise superfluous language, and general improvement of language and expression.

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The same guidelines have been followed in the

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preparation of the Health Occupations Article. The basic thrust of the Commission's work is formal; the primary purpose of its work is modernization and clarification, not policymaking. Nevertheless, at some points in its work, the Commission finds it necessary to make recommendations that involve the substance of the law. The Commission has made every effort to assure that its recommendations conform as nearly as possible to the intent of the legislature and the revisor's notes to the appropriate section explain each change made and the reasons for it. The significant issues are addressed in this report.

Issues involving fundamental policy also are noted. Since the resolution of these issues is beyond the purview of the revision process, the Commission has made no attempt to resolve them other than by calling them to the attention of the General Assembly for its independent action. A list of these issues is attached to this report as Appendix A.

The general rule of construction applied by the courts to a bulk revision of this nature was stated in Welch v. Humphrey, 200 Md. 410, 417 (1952):

"It is true that a codification of previously enacted legislation, eliminating repealed laws and systematically arranging the laws by subject matter, becomes an official Code when adopted by the Legislature, and, since it constitutes the latest expression of the legislative will, it controls over all previous expressions on the subject, if the Legislature so provides. However, the principal function of a Code is to reorganize the statutes and state them in simpler form. Consequently any changes made in them by a Code are presumed to be for the purpose of clarity rather than change of meaning. Therefore, even a change in the phraseology of a statute by a codification thereof will not ordinarily modify the law, unless the change is so radical and material that the intention of the Legislature to modify the law appears unmistakably from the language of the Code."

See also Bureau of Mines v. George's Creek Coal and Land Co., 272 Md. 143, (1974); Baltimore Tank Lines v. Public Service Commission, 215 Md. 125 (1957); Welsh v. Kuntz, 196 Md. 86 (1950); Crow v. Hubbard, 62 Md. 560 (1884); and Matter of Anderson, 20 Md. App. 31 (1974).

II. FORM AND ORGANIZATION.

The Health Occupations Article being introduced for the 1981 regular session of the General Assembly conforms with the organizational form and numbering system used in previously revised articles. Accordingly, it will be published in a separate unnumbered volume and, in accordance with Art. 1, § 25 of the Code, will be cited by name. This is the second article to be revised in language that is neutral as to gender.

The vast majority of the provisions relating to each occupation are the same, or at least very nearly the same, as corresponding provisions regulating other health occupations. For this reason, and because it is important always to state similar provisions in the same way to avoid unintended differences, the Commission has revised this material in a standard organizational framework, using consistent terminology. Each title follows this framework to the extent that the present law permits. The use of this standard framework and terminology also makes it easier to locate and understand particular provisions in the law.

The text of the article is printed in all capital letters as though it were all new material. However, in many instances, comparisons with the present law will show that changes are largely stylistic.

Each section -- or, in some instances, subsection -- of the proposed article is followed by a revisor's note that explains all significant changes made by the revision. These notes also facilitate comparison of the revised article with the law it replaces, and show the relationship between present and proposed Code provisions.

Furthermore, the revisor's notes -- while not a part of the law itself (see Section 5 of HB 1, page 717) -- serve an important function in preserving the intent and substance of the present or "source" law. In Murray v. State, 27 Md. App. 404 (1975), the Court of Special Appeals recognized the importance of revisor's notes not only as a statement of the revisor's intent, but as a statement of legislative intent as well:

"These notes were part of the legislation enacting the revisions explaining to the legislators not only what changes were effected but what their expressed intention was in changing the wording." Murray v. State, 27 Md. App. at 409 (Emphasis in original).

Because of their importance as recognizable elements of

legislative history, only minor changes will be made in the revisor's notes to the bill before final printing.	120 121
III. HEALTH OCCUPATIONS ARTICLE.	123
The proposed article includes substantially all provisions of the public general law relating to the various health occupations administered by the Department of Health and Mental Hygiene.	125 126 127
The health occupations regulated by the proposed article are arranged alphabetically from audiology through speech pathology. Each occupation is treated in a separate title, except that where a single board licenses two closely related occupations, such as dentists and dental hygienists, the two are treated in a single title.	129 130 131 132 133
Each title, except Title 1, includes provisions for the establishment and operation of a licensing board, application procedures for licenses, qualifications and examination for licensing, and procedures for issuance and renewal of licenses. Each also includes the disciplinary provisions for the occupation, the prohibitions related to practice, and penalties.	135 136 137 138 139
It is expected that two additional titles, regulating well drillers and waste water treatment superintendents and operators, will be proposed for addition to the article by means of a separate bill. Responsibility for these occupations was transferred from the Department of Natural Resources to the Department of Health and Mental Hygiene on July 1, 1980 by Executive Order.	141 142 143 144 145
This article does not include provisions for the overall operation of the Department of Health and Mental Hygiene itself, its various programs, or provisions for the regulation of institutions that provide medical care. These matters, and many others that relate specifically to the care and treatment of individuals, the prevention of disease, etc., will be handled in subsequent Health articles to be presented to the General Assembly.	147 148 149 150 151 152
Each title of the Health Occupations Article was prepared initially by the Commission staff. Staff members contributing to the article were: Associate Revisors Gary Mano Hyman, William M. Ferris, and Dennis R. Robin, and Assistant Revisors Pamela Baldwin, Joseph Bernstein, and Jean Bienemann. Gary Mano Hyman was the article supervisor and William M. Ferris coordinated production. The Commission subcommittee, which thoroughly reviewed all	154 155 156 157 158 159

drafts, was chaired by Franklin B. Olmsted, Esq., and 160
 consisted of: Avery Aisenstark, Esq., Dorothy A. Beatty, 161
 Esq., Bruce C. Bereano, Esq., Walter E. Black, Jr., Esq., 162
 Ward B. Coe, Jr., Esq., Edward S. Digges, Jr., Esq., M.
 Albert Figinski, Esq., Henry F. Leonnig, Esq., Walter A. 163
 Rafalko, Esq., Emily M. Rody, Esq., and Thomas G. Young, 164
 III, Esq. William H. Adkins, II, Esq. served as Committee
 Chairman during the early part of the time that the article 165
 was in preparation. Also working with the Committee were 166
 the following Legislative Consultants: Senators John J. 167
 Bishop, Jr., Howard A. Denis, and Arthur Dorman, and
 Delegates Torrey C. Brown, Raymond A. Dypski, Sheila E. 168
 Hixson, and Judith C. Toth. Following extensive Committee 169
 review and approval of the proposed article, it was then 170
 submitted to the full Commission for further review and
 approval.

In preparing the Health Occupations Article, the 172
 Commission and its staff have had a great deal of assistance 173
 from many people involved with each of the occupations in 174
 this article. Members and staff of each of the licensing 175
 boards, and the Commission on Medical Discipline, numerous
 people in the Department of Health and Mental Hygiene, 176
 several assistant attorneys general, and representatives of 177
 many professional associations of individuals in these 178
 occupations have explained many provisions, advised as to
 administrative practice, and reviewed many drafts of this 179
 material. They have also attended Committee and Commission 180
 meetings, and made many comments and suggestions. Many of 181
 the ideas incorporated in this article were developed
 through these cooperative efforts. Although space does not 182
 permit listing everyone, the Commission and its staff are 183
 deeply indebted to these many people and thank them 184
 sincerely.

IV. NECESSARY MODIFICATION AND CHANGE. 186

There are some changes as to which a detailed 188
 explanation would generally be impractical, due to length. 189
 There are also many essentially routine changes that are too 190
 numerous to detail in this report. The following represents 191
 a cross-section of both these types of changes.

A. Unnecessary provisions. 193

In many instances, the Commission encountered present 195
 statutory language that is plainly unnecessary. 196

Present Art. 43, § 273A(a)(3) defines, for purposes of 198
 that section, "established name", but the defined term 199

appears nowhere in that section outside the definition. The Commission, therefore, deleted the definition. See the revisor's note to § 12-508, on page 442, lines 22845-47.

Many of the present health occupation subtitles include severability provisions. See, e.g., present Art. 43, § 808, which applies to audiologists and speech pathologists. Article 1, § 23 of the Code provides that, except as expressly provided otherwise, all statutes enacted after July 1, 1973 are severable. Article 1, § 23 of the Code will apply to the entire Health Occupations Article; therefore, as has been done in previous revised articles, severability provisions similar to present Art. 43, § 808 have been deleted.

In some instances, superfluous language is more than simply unnecessary; it could create a result neither intended nor even contemplated. For example, present Art. 32, § 8 establishes an application fee of \$50 for a general or teacher's license to practice dentistry and goes on to provide that "no part of said fee [is] to be refunded under any circumstances". This reference to the fee not being refundable is unnecessary. Other health occupation boards, in the absence of similar express provisions, do not refund the application fee to unsuccessful applicants, and even the State Board of Dental Examiners does not refund the application fee to unsuccessful applicants for a license to practice dental hygiene, as to which there is no similar express provision. However, the presence of this express language as to dental licenses and its absence as to most other health occupation licenses becomes far more apparent with the uniform organizational pattern employed in the Health Occupations Article. Therefore, its absence as to those other health occupation licenses might be used to reach the unintended result that most application fees are refundable. To avoid this possibility, the Commission deleted the references to application fees being nonrefundable in the few places where they appear.

B. Obsolete provisions.

Over the years, some statutory language becomes obsolete. An example of such a provision governing a health occupation is present Art. 43, § 641, concerning psychologists. That section provides for review of the Psychologists Certification Act by the State Board of Examiners of Psychologists "five years from July 1, 1957, and no later than five years and sixty days thereafter". It is unclear whether the period to which this provision applied ended on August 30, 1962 or August 30, 1967, but, in either case, it ended over a decade ago and the provision is

obsolete. The Commission, therefore, deleted it.	240
<u>C. Unconstitutional provisions.</u>	242
Occasionally, the Commission found provisions that are	244
clearly unconstitutional. An example of such a provision in	245
the present health occupations law is present Art. 32, §	246
12(a), which prohibits "[a]ll advertising by dentists".	247
This prohibition is blatantly unconstitutional under	
numerous judicial decisions. See, e.g., <u>Bates v. State Bar</u>	248
<u>of Arizona</u> , 433 U.S. 350, reh. denied 434 U.S. 881 (1977),	249
and <u>Virginia Board of Pharmacy v. Virginia Citizens Consumer</u>	250
<u>Council</u> , 425 U.S. 748 (1976); see also <u>Friedman v. Rogers</u> ,	
440 U.S. 1, reh. denied 441 U.S. 917 (1979). The Attorney	251
General has opined that this specific provision is	252
unconstitutional. 62 Op. Att'y Gen. 256, 267 (1977). On	253
the basis of these authorities, the Commission deleted	
present Art. 32, § 12(a).	254
<u>D. Ambiguous provisions.</u>	256
The Commission frequently encountered provisions that	258
are potentially troublesome because they have more than one	259
possible meaning. A common example of such a provision is	260
the last sentence in present Art. 43, § 501(c), which	261
relates to the State Board of Chiropractic Examiners. That	262
sentence reads: "A majority of the Board shall constitute a	
quorum." This provision could mean that a quorum is a	263
majority of the full authorized membership of the Board; it	264
is equally plausible that the provision means that a	265
majority of the members then serving on the Board is a	
quorum. When it encounters such ambiguities, the Commission	266
attempts to resolve them by using well-established rules of	267
statutory construction to determine what the legislature	268
intended. A leading indicator of legislative intent is	269
actual administrative practice. See <u>State Commission on</u>	
<u>Human Relations v. Baltimore County</u> , 46 Md. App. 45, 58	270
(1980); see also <u>Public Service Commission v. Howard</u>	271
<u>Research & Development Corp.</u> , 271 Md. 141, 152 (1974).	272
Therefore, the Commission resolved the ambiguity in the last	
sentence of present Art. 43, § 501(c) in favor of the	273
Board's practice. See the revisor's note to § 3-204.	274
<u>E. Gaps and omissions.</u>	276
Occasionally, the Commission encountered gaps in the	278
present law, created by unintentional omissions. For	279
example, present Art. 32, § 25C provides for "sunsetting"	280
all provisions of one subtitle of Article 32 "creating the	281
State Board of Dental Examiners and relating to the	
regulation of dentists and all regulations promulgated	282

under" that subtitle. Literally, this provision does not affect the portions of Article 32 that relate to the regulation of dental hygienists. However, the State Board of Dental Examiners licenses dental hygienists and the law requires, with a few limited exceptions, that a dental hygienist be supervised by a licensed dentist. Thus, if the provisions creating the Board and relating to dentists were abolished, most practice of dental hygiene would become legally impossible and, eventually, all licenses to practice dental hygiene would expire, so that all practice of dental hygiene would become illegal. In short, the practical effect would be to make all laws and regulations relating to the practice of dental hygiene inoperable, but in a way that would abolish the occupation rather than its regulation. Realizing that this result was not what the legislature intended, the Commission decided to revise present Art. 32, § 25C to provide expressly for "sunsetting" the provisions relating to the regulation of dental hygienists along with the provisions concerning the Board and the regulation of dentists. See the revisor's note to § 4-702, on page 142.

F. Inconsistent and contradictory provisions.

The Commission also found some provisions in the present law regarding health occupations that are inconsistent with or contradict other provisions of law.

An example of an internal inconsistency or contradiction in the present law may be found in the Electrology Practice Act. Present Art. 43, § 555B-6(a)(2)(ii)5. provides that the "consumer members" of the State Board of Electrologists "[m]ay not participate in activities relating to examinations unless approved by the Board". On the other hand, present Art. 43, § 555B-9(b) states that, "[e]xcept for the power to grade examinations, a public member has all the powers and duties of any other Board member." Since the terms "consumer member" and "public member" are used interchangeably in the present Electrology Practice Act, §§ 555B-6(a)(2)(ii)5. and 555B-9(b) obviously conflict. After applying the rule of statutory construction that the later enactment represents the legislature's intent, the Commission decided to follow present Art. 43, § 555B-6(a)(2)(ii)5.

An example of a provision in the present health occupations law that contradicts or is inconsistent with a provision in another article of the Code is present Art. 43, § 136(a), which relates to physicians. That subsection provides for a fine of "not less than one hundred dollars or more than five thousand dollars" for certain criminal offenses, including unauthorized practice of medicine.

However, Art. 27, § 643 of the Code states that, 322
 notwithstanding a prescribed minimum penalty, a court may 323
 impose a lesser penalty of the same character. Therefore, 324
 in § 14-706, the Commission deleted the minimum fine of 325
 present Art. 43, § 136(a). See the revisor's note to §
 14-706, on page 565.

V. GENERAL ISSUES. 327

A. Introduction. 329

When the Commission began to revise the Health 331
 Occupations source law, it found that almost every health 332
 occupation title or subtitle had a unique statutory 333
 organization and different words to express the same or
 similar ideas. Despite these apparent differences, each 334
 health occupation board is in one department -- the 335
 Department of Health and Mental Hygiene -- and the operation 336
 and regulation of one health occupation is very similar to
 other health occupations. 337

When the various titles and subtitles of the present 339
 health occupations law are put into a composite, standard 340
 organizational framework, it becomes apparent that the 341
 present law omits provisions for some occupations that are 342
 in the present law as to most other health occupations. In
 some cases, these omissions do not indicate any legislative 343
 intent to differentiate, and, in those cases, the Commission 344
 added the missing provision if practice supports it. Thus, 345
 for example, a provision was added by the Commission in § 346
 2-303 of the Audiologists Title stating that license
 applicants "shall submit an application to the Board on the 347
 form that the Board requires".

The organizational framework used in each health 349
 occupation title of this article closely follows that of the 350
 health occupation licensing statute most recently enacted by 351
 the General Assembly in Ch. 715, Acts of 1979.

It is a precept of the Commission to revise the law in 353
 a clear, straightforward manner and, once something is said, 354
 to say it the same way every time it is said. Thus, where 355
 two present provisions are phrased differently but have the 356
 same meaning, their revisions in this bill are the same, and
 a difference between titles indicates that a distinction is 357
 intended.

B. Definitions; general provisions. 359

The first section of each title of the proposed Health 361

Occupations Article is a definition section in which the definitions are arranged in alphabetical order.	362
The Commission added, where it does not already appear, an affirmative statement of the legislative intent to grant each licensee the right to practice the health occupation for which the license is issued, even though a person authorized to practice another health occupation may be authorized to perform some of the same acts. For a more detailed discussion, see the General Revisor's Note to this article, pages 710 and 711, lines 36668-87.	364 365 366 367 368 369
<u>C. Boards.</u>	371
In general, each title of the Health Occupations Article other than Title 1 includes a subtitle with the following sequence of provisions: board establishment; board membership; board officers; quorum, meetings, compensation, and staff; miscellaneous powers and duties; and establishment of fees and disposition of funds.	373 374 375 376
Article I, § 9 of the Maryland Constitution provides for an oath of office by prospective board members and Article II, § 15 of the Maryland Constitution provides for removal of board members. Many of the present health occupation titles or subtitles include these constitutional requirements expressly. Where these requirements are not already expressly included, the Commission added them for clarity. See, e.g., § 2-202(e) and (g) of this article and the accompanying revisor's notes on page 16.	378 379 380 381 382 383 384
In describing the role of the Secretary in the process of appointing members to health occupation boards, the present law uses inconsistent language, which the Commission made uniform. See the General Revisor's Note to this article, page 712, lines 36717-33.	386 387 388 389
As to the board membership provisions, in the present law the staggered terms of board members are often set out in lengthy sections using many long past dates. To simplify these provisions and to allow for the numerous changes that have been made to these boards, the Commission used a standard form which states: "The terms of the members are staggered as required by the terms provided for members of the Board on July 1, 1981."	391 392 393 394 395 396
In light of board practice, the Commission added, where necessary, provisions regarding board membership that state that "[a]t the end of a term a member continues to serve until a successor is appointed and qualifies" and that "a member who is appointed after a term has begun serves only	398 399 400 401

for the rest of the term and until a successor is appointed and qualifies". See, e.g., § 11-202(h)(2) and (3) and the accompanying revisor's notes on pages 373 and 374.	402 403
Chapter 702, Acts of 1980 added additional consumer members to most of the boards governed by the proposed Health Occupations Article. As far as possible under the present law, these provisions have been revised in a standard manner throughout, with the definitions placed in Title 1.	405 406 407 408
Unless otherwise specified in the present law and in accordance with current board practice, where necessary, the Commission added, for clarity, a provision that states, "The manner of election of officers and their terms of office shall be as the Board determines". See, e.g., § 4-203(b) on page 90.	410 411 412 413
Where the present law requires an individual to be bonded, the Commission deleted the bonding reference as unnecessary since all state employees and officers are covered by a blanket bond. See, e.g., the revisor's note to § 8-203, page 281, beginning at line 14520.	415 416 417 418
Many of the present provisions use the term "a majority of the Board". For a discussion as to how the Commission handled this ambiguous language, see Part IV. D. of this report.	420 421 422
Board expenditures are dependent on the State budget. Therefore, the Commission added the qualifying phrase "in accordance with the State budget", where necessary, to modify provisions that authorize board expenditures. See, e.g., § 2-204(b) and (c) on page 18.	424 425 426 427
The concept that all funds collected by a board go into the General Fund of this State is expressed in varying forms in the present law. For clarity, brevity, and in light of other independent provisions of law, the Commission substituted or, where necessary, added the following: "The Board shall pay all funds collected under this title into the General Fund of this State". The Commission also deleted the unnecessary detailed requirements for disbursement from the General Fund of this State. See, e.g., § 2-206(c) and the accompanying revisor's note on pages 20 and 21.	429 430 431 432 433 434 435 436
<u>D. Licensing and Certification Nomenclature.</u>	438
Throughout the Health Occupations Article, the Commission used "license" and "licensed" to denote an	440 441

authorization to practice a particular health occupation 442
that a person who is not licensed in that health occupation 443
may not practice and "certification" and "certified" to 444
indicate an official recognition of an individual as a 445
qualified practitioner and an accompanying grant of the
exclusive privilege or right to make certain
representations. In a few places, the term "permit" is used 446
to denote the authorization to perform certain limited acts 447
that are related to a particular health occupation and that 448
a person without a permit may not perform. For the
reasoning behind the selection and use of these terms, see 449
the General Revisor's Note to this article, page 711, lines 450
36689-715.

In those instances where the present law uses 452
"registered" to indicate license renewal, the Commission, 453
for clarity, substituted "license renewal" for 454
"registration" or "reregistration". See, e.g., the
discussion of registration in the General Revisor's Note to 455
Title 6, page 217, lines 11179-201.

E. Licensing and Certification. 457

In general, each title of the Health Occupations 459
Article other than Title 1 includes a subtitle with the 460
following sequence of provisions: license (or certification) 461
required and exceptions; qualifications of applicants; 462
applications for licenses; examinations; waiver of
examinations; issuance and contents of license; scope of 463
license; term and renewal of licenses; inactive status and 464
reinstatement of expired licenses; display and recordation
of licenses and change of address; denial, reprimands, 465
suspensions, revocations -- grounds available; hearings; and 466
administrative and judicial review.

Where the provision does not already expressly appear, 468
the Commission has added standard language to each health 469
occupation title to state expressly that an applicant who 470
otherwise qualifies is entitled to an opportunity to take 471
the required examination. This provision reflects the
requirements of constitutional due process. For a further 472
discussion, see page 712, lines 36747-59 of the General 473
Revisor's Note to the article.

In the examination and hearing provisions, where the 475
provision does not already expressly appear, the Commission 476
added language to state expressly that the board must give 477
notice. This addition states a provision implied in the 478
present law and, in any event, provides an element of
fundamental fairness.

The present law states in varying language that each health occupation board has control over examinations. Unless otherwise indicated and if supported by present practice, the Commission substituted or, if necessary, added the following provision: "The Board shall determine the subjects, scope, form, and passing score for examinations given under this subtitle."

Regarding waiver of examinations, under most of the present health occupation titles and subtitles, an individual seeking an examination waiver is required by the present law to have passed an examination in another state. Generally, such an individual applies from the state where the individual has been examined and is currently licensed. However, with increasing frequency, applicants have been examined and licensed in one state, then licensed by examination waiver in a second state, before applying for an examination waiver in this state. In light of current practice, and after consultation with each individual board, the Commission added language in most of the health occupation titles that states expressly that the board has the discretion to grant an examination waiver to an applicant who has already received an examination waiver in another state.

Regarding the process of issuing and renewing a license, the present law frequently is silent or has gaps. As far as permitted by the present law, and after consultation with the Department and with the individual boards, the Commission, where appropriate, added standard language that reflects current practice. See, e.g., §§ 2-306 and 2-308, pages 27 and 28, respectively.

As to the present provisions concerning the replacement of lost or destroyed licenses, since each board can issue and replace licenses, the Commission expressly retained only that part of those provisions that concerns a fee. See, e.g., § 4-307(c) and its accompanying revisor's note on page 104.

As to the grounds for board action against a health practitioner, while some of the present provisions mention the power to reprimand a licensee or to deny a license to an applicant on the statutory grounds, other present provisions are silent. Based on consultation with the Department, the Attorney General's office, and the boards, the Commission added language that states expressly the power to reprimand a licensee or to deny a license on the same grounds. Since each board has the power to revoke or suspend a license, these additions expressly recognize lesser included powers of each board. See, e.g., § 2-313 and the accompanying

revisor's notes on pages 34 and 35.

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Also as to the grounds for board action, there are many
varying, present provisions that concern a person who
fraudulently or deceptively obtains a license or
fraudulently or deceptively uses a license. After
consultation with the Department and the boards the
Commission adopted standard language to express these
concepts. Where the present law is silent as to one or both
of these concepts, the Commission added these as standard
provisions. These provisions state fundamental grounds for
board action. See, e.g., § 2-313(1) and (2), page 34.

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As to the hearing provisions, the Commission expressly
stated in each health occupation title of this article that
the Administrative Procedure Act applies. See Art. 41, §§
244 et seq. Also in light of the legislative intent
expressed in Section 3 of Ch. 94, Acts of 1957 to repeal
inconsistent provisions, the Commission, where necessary,
used the pattern established in the Administrative Procedure
Act, unless a departure from the Administrative Procedure
Act was clearly intended.

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While there is mention of an ex parte hearing in only
some of the present health occupation provisions, the
Commission added an express reference to ex parte hearings
in each health occupation title to emphasize that a party to
a hearing must be given notice. See, e.g., § 2-314, page
37, lines 1910-12.

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As to administrative and judicial review of
administrative proceedings of a board, the present
provisions in most cases do not accurately reflect the
current state and priorities of the law. For a detailed
discussion, see, e.g., § 2-315, pages 38 and 39.

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F. Prohibitions and penalties

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As part of the general licensing and certification
scheme, there are numerous present prohibited acts and
penalties. Where possible, the Commission organized the
prohibitions and penalties as follows: prohibited acts --
unauthorized practice, misrepresentation, other prohibited
acts -- and penalties.

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Regarding practicing without a license, for clarity and
to avoid confusion, the Commission substituted standard
language in each health occupation title. Where the present
law merely implies this provision, the Commission, after
consultation with the board concerned, added this provision
as fundamental to the regulatory scheme. See, e.g., § 2-401

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of this article on page 40 of the bill.	559
Regarding misrepresentation, for clarity and to avoid confusion, the Commission used standard language, where possible, in each health occupation title of this article. Where the present law merely implies this provision, the Commission, after consultation with the board concerned, added this provision as fundamental to the regulatory scheme. See, e.g., § 2-402(a) and (b) of this article on pages 40 and 41.	561 562 563 564 565 566
In the revisor's notes to some of the penalty sections, there are mentions of catchlines. Due to printing problems, these catchlines do not appear in the bill, but they will appear in the printed volume of the Health Occupations Article. The catchlines will be placed in brackets, because they are not part of the law.	568 569 570 571 572
<u>G. Short title; termination of title.</u>	574
Where there is not already a short title, the Commission has added one to each health occupation title. See, e.g., § 2-501 of this article on page 43.	576 577
VI. DISCUSSION OF INDIVIDUAL TITLES.	580
<u>Title 1. Definitions; general provisions.</u>	583
As in other revised articles, Subtitle 1 of Title 1 contains definitions that apply throughout the article. Four of the ten definitions are virtually identical to definitions in Title 1 of the Financial Institutions Article. Four others are included merely to permit abbreviated references to the Board of Review of the Department of Health and Mental Hygiene, the Department itself, individuals authorized to practice medicine in this State, and the Secretary of Health and Mental Hygiene. The remaining two are derived from the definitions of "household member" and "financial interest" that appeared repeatedly in Ch. 702, Acts of 1980; they are included in Title 1, Subtitle 1 to avoid repeating identical definitions in the article 19 times.	585 586 587 588 589 590 591 592 593 594
The definition of "state" in § 1-101(j) is identical to the definition of "any state" in several other revised articles. The shorter term is used in order to prevent confusion over the applicability of the definition to terms such as "any other state". In addition, the defined term is used throughout the article in place of the many different descriptions, in the present law, of other jurisdictions in	596 597 598 599 600 601

the United States outside of this State. See the revisor's
note to § 1-101(j) on page 7. 602

Title 1, Subtitle 2 contains general provisions that
set out the procedure for verification and a requirement for
compliance with the State workmen's compensation law.
Section 1-201, which sets out a standard procedure for
verification, is based on procedures called for by Maryland
Rule 5c. 604
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Title 2. Audiologists. 610

Title 2 contains the provisions governing the State
Board of Examiners for Audiologists and regulating the
practice of audiology in this State by licensed audiologists
and individuals who are completing the licensing
requirements. 612
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Although present Art. 43, §§ 791 through 808A regulate
both audiologists and speech pathologists, the two
professions are governed by separate regulatory boards and
licensing provisions. Therefore, the Commission decided to
use all the provisions that relate to speech pathologists as
source law for a separate title, Title 19. See the General
Revisor's Note to Title 2 on page 43, lines 2252-58. 616
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In § 2-201, the phrase "in the Department" is added to
avoid any question of jurisdiction over the Board. See page
14, lines 732-37. 623
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In § 2-202(a)(2), the ambiguous reference to all
members of the Board holding "valid licenses" is revised to
clarify that members need to be licensed in their own
respective professions, not necessarily as an audiologist.
See pages 16-17, lines 869-74. 626
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In § 2-205, the term "code of ethics" is substituted
for the present language "ethical standards" to conform to
terminology used in § 2-313(10) and in practice. See page
19, lines 1011-14. 631
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In § 2-301(b), the present exemptions from the title
are revised as license exceptions to give effect to the
intent behind the law merely to exempt certain persons from
the requirement to have a license before practicing. See
page 22, lines 1154-61. 635
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In § 2-302(c)(1)(ii), an additional educational
requirement for a license applicant is added to conform to
Board practice. The addition allows an applicant to qualify
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for a license by having a master's degree, or its 642
equivalent, in a subject other than audiology along with a 643
certain number of audiology courses. See page 23, lines 644
1225-30.

The reference in present Art. 43, § 798(a) to the Board 646
suspending a license if not renewed within 30 days conflicts 647
with the second sentence of present Art. 43, § 795(a), which 648
provides that a license expires 1 year after its issuance. 649
In conformance with Board practice, the Commission resolved
this conflict in § 2-308(a), which states expressly that a 650
license expires at the end of its term. See page 30, lines 651
1558-66.

Present Art. 43, § 791(8) defines "unethical conduct", 653
but, except for one variation, that term does not appear 654
elsewhere in the present law. Therefore, the Commission 655
revised present Art. 43, § 791(8) as substantive provisions 656
in § 2-313 (5) through (10). See page 36, lines 1855-71.

Title 3. Chiropractors. 659

Title 3 governs the State Board of Chiropractic 661
Examiners and the licensing and regulation of chiropractors, 662
including those with the additional right to practice 663
physical therapy.

Present Art. 43, § 500(a) provides that the list of 665
names submitted to the Governor for possible appointment to 666
the Board of Chiropractic Examiners shall include "the 667
incumbent member". Taken literally, this would require an 668
incumbent's name to be submitted even if the incumbent were
incapacitated or did not wish to be reappointed. The 669
Commission, therefore, added a provision that allows the 670
incumbent to decline renomination. See § 3-202(a)(4), page
48.

Present Art. 43, § 501(c) requires the Board secretary 672
to keep records of Board proceedings open for public 673
inspection "at all times". Art. 76A requires records to be 674
open at all "reasonable" times. As the element of 675
reasonableness is implied in the source law, the Commission
deleted this provision, and others like it in other health 676
occupation titles, in light of Art. 76A. See the revisor's 677
note to § 3-203, page 52.

Present Art. 41, § 503(a) requires 2 years of study at 679
a college or university approved by the State Department of 680
Education. The Commission added a reference to approval by 681
a comparable authority in another state to conform to Board

practice, which recognizes that many people attend school in 682
other states. See § 3-302(c), page 56, line 2934, and the 683
revisor's note, page 57, lines 2985-88.

The revisor's note to § 3-308, page 66, line 3456 et 685
seq., points out a significant distinction between Title 3 686
and the other titles of the Health Occupations Article; the 687
license of a chiropractor does not expire automatically if 688
not renewed. The license continues in effect until the
Board takes action to suspend or revoke it. See also the 689
General Revisor's Note to Title 3, on page 76, which also 690
discusses the effect of failure to comply with the 691
continuing education requirements.

The General Revisor's Note to this title, on page 76, 693
also discusses the relationship between the chiropractic and 694
physical therapy occupations, and the authority of the Board 695
of Chiropractic Examiners to issue a license to practice 696
chiropractic with the right to practice physical therapy.

Also in the General Revisor's Note, page 78, lines 698
4039-49, the Commission proposes deletion of the requirement 699
that a licensee record the license with the clerk of the 700
court in the counties where the licensee resides and 701
practices. See also the revisor's note to § 3-310, page 69,
lines 3582-84.

Title 4. Dentistry.

Title 4 governs the State Board of Dental Examiners, 704
the licensing and regulation of dentists and dental 706
hygienists, and, to a limited degree, dental laboratories. 707
The Board of Dental Examiners is authorized to issue six 708
different types of licenses. 709

Present Art. 32, §§ 2 and 2A provide that a member of 711
the Board of Dental Examiners who, "without adequate reason, 712
is absent from two successive meetings" of the Board "shall 713
cease to be a member". However, the present law does not 714
establish the mechanism by which this is to happen. The
Commission, therefore, revised that language to state 715
directly the mechanism that, as a practical matter, would be 716
used under the present law, i.e., removal by the Governor. 717
See the revisor's note to § 4-202 on pages 88-89.

The present law imposes a duty on the Board to maintain 719
certain records concerning its licensees. See present Art. 720
32, §§ 5, 13, and 29. However, the scope of these 721
requirements is illogical -- e.g., the law requires the 722
Board to keep a record of the suspension of a license, but

is silent as to keeping a record of probationary status. To 723
fill these gaps, the Commission restated these provisions in 724
more general language. See § 4-205 and the revisor's note 725
on page 92.

Present Art. 32, § 18 lists three categories of 727
individuals who ostensibly are totally exempt from the 728
provisions of that article. However, a careful examination 729
of present Art. 32 reveals that these exemptions were
actually intended merely to be exceptions to the requirement 730
to have a license before practicing dentistry. The 731
Commission, therefore, restated them as license exceptions. 732
See the revisor's note to § 4-301 on pages 95-96.

Present Art. 32, § 5(d) sets out the circumstances and 734
procedure under which the Board may license a "dental 735
graduate" who does not meet the usual requirements for a 736
license to practice dentistry. On analysis, the Commission
found that this provision was intended to provide a vehicle 737
by which the Board may waive the requirement that an 738
applicant hold a degree of doctor of dental surgery, or the 739
equivalent, from an approved college or university. 740
Therefore, the revision of this provision expressly
addresses waiver of the regular education requirements. See 741
§ 4-303 and the revisor's note on page 99.

Present Art. 32, § 5(c) states that the Board may 743
revoke a limited license to practice dentistry "at any time 744
for cause". It is not clear whether that "cause" is 745
coextensive with the grounds for which a general or
teacher's license to practice dentistry may be revoked, 746
suspended, etc. However, after consultation with the Board, 747
the Commission determined that "cause" was intended to mean 748
those grounds, and, therefore, the Commission revised the 749
law to make that relationship clear. See the revisor's note
to § 4-314(a) beginning at line 5992 on page 116. 750

The provisions in present Art. 32 that relate to 752
advertising are revised in §§ 4-314(a)(8) and (13) and 753
4-502. Many of these provisions are partially or totally 754
unconstitutional under recent court decisions and a 1977
opinion by the Attorney General. Where a provision is 755
partially unconstitutional, the Commission attempted to 756
rephrase it in the broadest possible constitutionally 757
permissible language. Where a provision is totally
unconstitutional, the Commission deleted it. See the 758
revisor's notes to §§ 4-314 and 4-502, which begin on pages 759
116 and 134, respectively, for a full discussion of the
provisions involved and for some of the authorities on which 760
the Commission based its conclusions.

Present Art. 32, § 13 states that a licensee whose license is suspended or revoked may appeal the Board's decision to a court "where the matter shall be heard de novo, and where either party shall be entitled to a jury trial". A substantially identical provision in the Natural Resources Article was declared unconstitutional in Department of Natural Resources v. Linchester Sand & Gravel Corp., 274 Md. 211 (1975). The Commission, therefore, deleted the quoted language. See § 4-318 and the revisor's note that begins at line 6314 on page 123.

Present Art. 32, § 25(c) 5. provides that "[a] licensed dentist at any educational institution, hospital or clinic shall complete a written work authorization form before a dental student, dental technician, or student dental technician, may perform any dental technological work away from the premises thereof". Other provisions of present Art. 32, § 25 require, with some narrow exceptions, that anyone other than a licensed dentist must possess a written work authorization signed by a licensed dentist before doing dental technological work. Therefore, the Commission determined that present Art. 32, § 25(c)5. was intended to permit members of the three enumerated groups to perform such work without a written work authorization while they are on the premises of an educational institution, hospital, or clinic with which they are associated. See § 4-402 and the revisor's note on page 126.

The second paragraph of present Art. 32, § 1 seemingly makes it "unlawful for any individual or group of individuals to practice dentistry in this State as a corporation" under any circumstances. However, the intent of the General Assembly seems to have been to repeal that paragraph to the extent that it is inconsistent with the Maryland Professional Service Corporation Act, CA §§ 5-101 through 5-122. Therefore, the Commission added to the second paragraph of present Art. 32, § 1 language that expressly states that the blanket prohibition on practicing dentistry as a corporation is modified by other, independent provisions of law. See § 4-603 and the revisor's note on pages 139-40.

Several sections and subsections of present Art. 32 are unnecessary in light of other provisions in the Code or court decisions. The deletion of these provisions is discussed in the General Revisor's Note to Title 4, which begins at the top of page 143.

Title 5. Electrologists.

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Title 5 contains provisions governing the State Board of Electrologists and regulating electrologists and electrology instructors. See the General Revisor's Note to Title 5 at pages 167-168, lines 8604-31. 803
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Present Art. 43, § 555B-14 is ambiguous and appears to state that an applicant who is trained out-of-state and seeks to be licensed in this State first may have to be licensed in another state and then waive into this State under present Art. 43, § 555B-17, which does allow the Board to evaluate the out-of-state qualifications of an applicant. To avoid this circuitous process and to allow for fundamental fairness, § 302(d)(2) is added to give the Board authority to evaluate the out-of-state training of an applicant. See page 152, lines 7770-81. 807
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On the subject of electrology education programs, the present law presents several problems. (1) A program need not be taught at an approved institution of higher learning. See § 5-302(d)(1) and its revisor's note at page 152, lines 7785-89. (2) Although the present law is silent as to the powers of the Board over programs in other states, § 5-401 is revised to clarify that the Board only has power over programs in this State. See pages 161-162, lines 8284-88. (3) As to present Art. 43, § 555B-29(b)(2)(i) which states that a program must be taught at an approved institution, see page 163, lines 8344-47. 816
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In § 5-311, the power of the Board to discipline a licensee or an applicant for using certain titles is added to conform to the prohibitions of § 5-501. See page 159, lines 8154-58. 825
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In § 5-602, the Commission added a prohibition of teaching the clinical practice of electrology without a license, thereby correcting an apparent oversight in the present law. See page 166, lines 8521-24. 829
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Present Art. 43, § 555B-33 was clearly intended to establish a prohibited act. The Commission, therefore, makes it unlawful for a licensee to use a title not expressly authorized by § 5-501. See page 167, lines 8559-68. 833
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Title 6. Morticians.

Title 6 governs the State Board of Morticians, and the licensing and regulation of apprentices, funeral directors, funeral establishments and morticians. The State Board of Morticians is authorized to issue any of six different types 838
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of licenses. Title 6 is derived primarily from the Funeral Directors and Embalmers Subtitle in present Art. 43, §§ 339 through 367. The present provisions relating to cremation, except for present Art. 43, § 367A, are not revised in Title 6.

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To reflect the fact that, with the exception of a limited number of funeral director's licenses, the Board now issues a unified license, the term "mortician" is substituted for "funeral director and embalmer" throughout Title 6. See the revisor's note to § 6-101(k) on pages 171-172, lines 8825-39 and § 6-201 on page 175, lines 8990-92.

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Present Art. 43, § 340 provides for tenure of Board members. For clarity, the revision states expressly that the tenure provisions apply only to appointed members and not to ex officio members. See the revisor's notes to § 6-202 on page 178, lines 9149-53. For another discussion of ex officio members, see the revisor's notes to § 6-204 on page 180, lines 9253-54.

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Present Art. 43, § 347(b) provides that the Board must maintain a list of licensed morticians. In light of current practice, the Commission proposes that the Board be required to keep a list of all persons licensed under Title 6. See § 6-205(4) and the accompanying revisor's note on page 181, lines 9307-12.

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Present Art. 43, § 359(a) provides for license exceptions for certain schools and for certain federal or Washington, D.C., employees. The Commission added a provision to recognize that there are individuals authorized by other present provisions of law to handle and dispose of dead bodies. See, e.g., Art. 43, §§ 159 and 160 of the Code. The Commission also added a provision that clarifies that an individual is not required to obtain a license in order to perform duties as an attorney or personal representative. See the revisor's note to § 6-301 on page 183, lines 9415-18.

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Present Art. 43, § 345 provides for apprentice requirements that are approved by the Board. In light of current practice and other references in the present law, the Commission added an alternative provision that allows for approval of the apprenticeship requirements by the Conference of Funeral Service Examining Boards of the United States. See § 6-302(d)(2)(ii) and the accompanying revisor's note on page 185, lines 9536-39.

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Present Art. 43, § 353 provides for a surviving spouse

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license but is silent as to many of the details of that 882
 license. For clarity, and in light of practice, the 883
 Commission added language that states that a holder of a
 surviving spouse license is not entitled to embalm. See § 884
 6-308(c)(2) and the accompanying revisor's note on page 192, 885
 lines 9905-16. In light of practice also, the Commission 886
 incorporated the surviving spouse license into the general
 license renewal and disciplinary provisions. See the 887
 revisor's note to § 6-308 on page 192 and §§ 6-313 and 6-315 888
 on pages 196-198 and 199-201.

The first sentence of present Art. 43, § 351(d), which 890
 refers to corporations formed during World War II, is 891
 deleted as obsolete. See the revisor's note to § 6-309 on 892
 page 194, lines 9985-88.

Present Art. 43, § 365, which provides that the cost of 894
 maintaining a school of mortuary science shall be defrayed 895
 by board funds, is retained even though this provision 896
 appears to be inconsistent with present Art. 43, § 360,
 which requires that the Board pay all funds it collects into 897
 the General Fund of this State. See the revisor's note to § 898
 6-402 on pages 207-208, lines 10681-91.

Title 7. Nurses. 901

Title 7 governs the State Board of Examiners of Nurses 903
 and the licensing and regulation of registered nurses and 904
 licensed practical nurses. Title 7 also includes the 905
 revision of present Art. 43, § 82 through 93 concerning the 906
 licensing and regulation of midwives. The midwife law is
 now being studied by the General Assembly for substantive 907
 revision.

Present Art. 43, § 292 provides that the Governor may 909
 remove a board member only "after notice and an opportunity 910
 for hearing and with the advice of the Secretary". The 911
 Commission deleted "with the advice of the Secretary" since 912
 the Governor's constitutional power may not be modified, and
 also deleted the reference to "notice" and a "hearing" as 913
 unnecessary in light of constitutional requirements. See 914
 the revisor's note to § 7-202 on page 228, lines 11741-52. 915

Present Art. 43, §§ 90 and 294 require the Board to 917
 keep lists of registered nurses, licensed practical nurses, 918
 nurse midwives, and certified nurse practitioners. After 919
 consulting with the Board, and to avoid the need for new
 legislation each time the Board certifies a nursing 920
 specialty, the Commission added a requirement that the Board 921
 keep lists of other nursing specialties that are certified 922

by the Board. See the revisor's note to § 7-205 on page 234, lines 12031-34. See also § 7-307 and the accompanying revisor's notes on pages 244 and 245.

Present Art. 43, § 300(c)(1), (2), and (3) lists three categories of individuals who ostensibly are totally exempt from the provisions of the Nurse Practice Act. However, a careful examination of the present provisions concerning nursing in Art. 43 reveals that these "exemptions" were actually intended merely to be exceptions to the requirement to have a license before practicing. The revision reflects that intent. See the revisor's note to § 7-301 on page 237, lines 12183-88.

Present Art. 43, § 291(c) provides that a licensed practical nurse performs acts in a "team relationship". For clarity, the Commission added the word "only" to state expressly that a licensed practical nurse may work only in a team relationship. See the revisor's note to § 7-309 on page 246, lines 12663-73.

Present Art. 43, § 291(c) provides that a licensed practical nurse may "administer treatment and medication as prescribed". For clarity, the Commission added a reference that states that the treatment or medication may only be prescribed by "an individual who is authorized by law" to do so. See the revisor's note to § 7-309 on page 246, lines 12683-85.

Present Art. 43, § 297(d) provides for license reinstatement for licensed practical nurses and registered nurses. In light of current Board practice, the Commission extended the reinstatement provision to licensed nurse midwives. See the revisor's note to § 7-311 on page 248, lines 12774-75. See also the revisor's notes to §§ 7-312 through 7-314 on pages 250, 252, and 254 and §§ 7-505 and 7-706 on pages 261 and 272 as to other provisions extended to nurse midwives.

The Commission deleted as unnecessary the first sentence of present Art. 43, § 297(d), which provides that a nurse who ceases to practice nursing in this State is not required to pay a renewal fee during the inactive period. See the revisor's note to § 7-311 on page 248, lines 12779-85.

Title 8. Nursing Home Administrators.

Title 8 governs the State Board of Examiners of Nursing Home Administrators and the licensing and regulation of

nursing home administrators. The Board of Examiners of Nursing Home Administrators is unique; it is the only health occupation board that is mandated by federal law in order for this State to receive certain federal funds.	963 964 965
Present Art. 43, § 767(3) defines "nursing home" by cross-referencing the definition of "nursing home" in Art. 43, § 556(e)(1). That definition does not describe the type of institution required by federal law. Therefore, the Commission substituted a definition of "nursing home" that conforms to the current federal requirements. See the revisor's note to § 8-101(e) on page 276, lines 14245-57.	967 968 969 970 971 972
Present Art. 43, § 769(c) provides that the Governor may remove a member only "after the member has been served with a written statement of charges and has been given an opportunity to be heard by the Secretary". As in Title 7, the Commission deleted these references as needlessly repetitive of constitutional guarantees. See the revisor's note to § 8-202 on page 280, lines 14481-88.	974 975 976 977 978 979
Present Art. 43, § 769(d) provides for per diem compensation and expenses for board members, and provides in the introductory clause for an exclusion for a public employee. In light of current practice, the Commission revised present Art. 43, § 769(d) so that the exclusion applies to compensation but not to reimbursement. See § 8-204(c) on page 281 and the accompanying revisor's note on page 282, starting at line 14562.	981 982 983 984 985 986
Present Art. 43, § 777 provides that, under certain restricted circumstances, an unlicensed individual is excepted from the requirement to have a license as a nursing home administrator for a 90 day period, but does not state when the 90 day period begins. Based on an unpublished Attorney General's Opinion dated October 26, 1977, the Commission added language that states when that period begins. See § 8-301(b)(2) and the accompanying revisor's note on page 285, lines 14742-45.	988 989 990 991 993 994
The Commission deleted present Art. 43, § 773(b), (c), and (d), which provides for a temporary license, as obsolete. The program on which the temporary license was based ended on June 30, 1972. See the General Revisor's Note to Title 8 on pages 302 and 303.	996 997 998 999
<u>Title 9. Occupational Therapists.</u>	1002
Title 9 contains the provisions that govern the State Board of Occupational Therapy Practice and that regulate the	1004 1005

practice of occupational therapy and limited occupational therapy in this State.	1006
New language is added throughout this title to clarify what an occupational therapy assistant does. The present law is ambiguous in this regard, in that present Art. 43, § 911(i) states that an occupational therapy assistant "provides occupational therapy treatment", while present Art. 43, § 926 indicates that occupational therapy assistants "assist in the practice of occupational therapy". After consulting with the Maryland Occupational Therapy Association and the Board, the Commission adopted an approach that more clearly outlines the permissible scope of the practice of limited occupational therapy. See pages 306 and 307, lines 15837-74, and § 9-401(b) and its revisor's note.	1008 1009 1010 1011 1012 1013 1014 1015 1016
At various points throughout Title 9, references to "practice limited occupational therapy" are added to correct gaps in the present law. These additions are explained in the revisor's notes to §§ 9-101(c)(2), 9-202(b), 9-301(a), and 9-314(3) and (6).	1018 1019 1020 1021
In § 9-202(c)(5), "participates" is substituted for "participated" to correct a technical error in Ch. 702, Acts of 1980. After consultation with the Department, the Commission determined that there was no intent to distinguish this board from the others insofar as the qualifications for serving as a consumer representative are concerned. See page 312, lines 16133-43.	1023 1024 1025 1026 1027
In § 9-301(b)(2)(ii)2., new language is added to allow a student in an occupational therapy assistant program to have the same license exception as a student in an occupational therapy program. See page 317, lines 16386-89.	1029 1030 1031
In § 9-301(b)(3)(i), the reference to a "licensed occupational therapy assistant" being allowed to supervise an occupational therapy aide is added to conform to practice. See page 317, lines 16399-403.	1033 1034 1035
In § 9-302(e), the reference to the required 2 months of experience being "supervised" is added to correct an omission and to conform to practice. See page 319, lines 16511-13.	1037 1038 1039
Present Art. 43, § 920(e) is ambiguous as to the amount of experience necessary before an occupational therapy assistant may have an examination waived under § 9-303(a)(2). After consulting with the Board, the Commission added new language that resolves the ambiguity.	1041 1042 1043 1044

See page 321, lines 16573-85.

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A combined reading of Section 2 of Ch. 909, Acts of 1978 and Art. 41, § 487(a) of the Code makes the Board subject to the "sunset" scheme established by Ch. 909, Acts of 1978. The Commission interprets the date of evaluation and reestablishment of the Board to be July 1, 1984. See § 9-502 and its revisor's notes at page 338, lines 17455-69.

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Title 10. Optometrists.

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Title 10 includes the provisions that govern the State Board of Examiners in Optometry and the licensing and regulation of optometrists.

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Present Art. 43, § 376(a) requires the Board to "keep a current list of all individuals ... whose certificate has been revoked". There is no express corresponding duty to keep a list of licensees who are on probation or suspension. As in § 4-205, concerning dentistry, the Commission used broader, more general language in its revision of present Art. 43, § 376(a). See § 10-205 and the revisor's note on page 346.

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Present Art. 43, § 378(a)(13) declares it to be actionable "unprofessional conduct" for a licensed optometrist to practice with an unlicensed individual "except in a residency training program". On the basis of this language and actual practice, the Commission added an exception for a student in a residency training program to § 10-301, which states the requirement to have a license before one practices. See § 10-301 and the revisor's note on page 348.

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Present Art. 43, § 375 uses the word "revoked" to describe what happens to a license if it is not renewed. Because this terminology is potentially misleading, the Commission has substituted the word "expires" in §§ 10-308 and 10-310. See the revisor's notes to those two sections, on pages 354 through 355 and 357, respectively.

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Present Art. 43, § 382, which addresses governmental relations with optometrists, is revised as § 10-401. The last sentence of present Art. 43, § 382 states that a governmental unit "shall honor, recognize, and accept reports, statements, and services submitted or rendered by optometrists, within the scope of optometry." The Commission clarified that vague statement by stating directly what it was intended to mean: i.e., that "[a] governmental unit shall honor and accept any report,

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statement, or service made or provided by a licensed
optometrist within the scope of optometry to the same extent
as if [it] was made or provided by a physician". See the
revisor's note to § 10-401 on page 365.

In § 10-403, the Commission revised the somewhat
obsolete provisions of present Art. 43, § 379(a) that
prohibit the use of certain titles or abbreviations by a
licensed optometrist. The new language reflects modern
practice while preserving the basic intent behind the
present law. See the revisor's note to § 10-403, beginning
at line 18972, on page 366, for a detailed discussion of
this change.

Title 11. Osteopathy.

Title 11 includes the provisions that govern the State
Board of Osteopathic Examiners and the regulation of the
practice of osteopathy. In considering the issues raised in
this title, it is appropriate to note that graduates of
schools of osteopathy are eligible to be licensed as
physicians by the Board of Medical Examiners. Recent
graduates are using that opportunity, and at present there
are no individuals practicing osteopathy in this State who
are not licensed by the Board of Medical Examiners.

In §§ 11-306(a), 11-310(a), and 11-313(a), pages 384,
388, and 392, respectively, the Commission has retained the
provision in the source law that provides for the
affirmative vote of three members of the Board for the
issuance, denial, suspension, revocation, or reinstatement
of a license. However, as the Commission points out in the
revisor's notes to each of these sections, Ch. 702, Acts of
1980 added a consumer member to the Board. While the three
member requirement represented a majority of the full
authorized membership before addition of the sixth member,
the requirement now is now exactly one half of the Board
membership, presenting the possibility that action could be
taken based on a tie vote.

Present Art. 43 § 478 prohibits any official from
accepting a birth or death certificate from an osteopathic
practitioner. The intent of this provision is that a
licensee under this title may not prepare or file a birth or
death certificate and the Commission has revised § 11-307,
page 385, accordingly.

There is an ambiguity in present Art. 43, § 480(a)
concerning disciplining a licensee for providing, aiding, or
abetting a criminal abortion. This problem is pointed out

on page 389 in the revisor's note to § 11-310, and the General Assembly may wish to address it. 1127

The General Revisor's Note to Title 11, on page 397, discusses the deletion of the requirement that a license be recorded with the clerk of court for the county in which the licensee resides. See also the revisor's notes to § 11-310, page 389, lines 20195-97 and § 11-401, page 394, lines 20409-11. 1129
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Title 12. Pharmacist and pharmacies. 1135

Title 12 includes the provisions that govern the State Board of Pharmacy, the licensing and regulation of pharmacists, the regulation of pharmacies, manufacturing, packaging, and distributing drugs, medicines, and the like, and direct distribution of hemodialysis drugs and devices to home hemodialysis patients. The Board is empowered to issue licenses to practice pharmacy and four different types of permits: pharmacy permits, manufacturing permits, distribution permits, and home hemodialysis distribution permits. 1137
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Title 12 is somewhat unusual in that it regulates not only licensed pharmacists, but also pharmacies, certain other business enterprises, and, to a very limited extent, dentists, physicians, podiatrists, and veterinarians. However, because these other provisions are so intertwined with the practice of pharmacy, and because they appear in the present pharmacy law, the Commission decided to include them in Title 12. On the other hand, two sections in the present pharmacy law -- present Art. 43, §§ 272 and 273, which relate to vending machines and medicine shows, respectively -- are not included in Title 12, but are left in Art. 43 for later revision along with other general health laws. 1145
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The present pharmacy law uses different, varying language to refer to a person whose prescription a licensed pharmacist may fill. On careful analysis, the Commission could find no legislative intent to differentiate among these references. Therefore, the Commission selected the most appropriate reference used in the present law, "authorized prescriber", created a definition for that term that includes all of the practitioners that the legislature seems to have had in mind when it used that term, and then used it uniformly in place of the diverse present references. See § 12-101(b) for the definition of "authorized prescriber" and the General Revisor's Note to Title 12, beginning at line 24155 on page 468, for a further 1155
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discussion of this proposed change.

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The present pharmacy law also includes inexplicable variations on the litany "drugs, medicines, and devices" to describe the materials that a licensed pharmacist may dispense. Following the apparent legislative intent, the Commission substituted that language wherever the variations appear, unless there is a discernible reason for the variation. See the General Revisor's Note to Title 12, beginning at line 24243 on page 468, for a further discussion on this subject.

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Present Art. 43, § 250(a) defines "practice of pharmacy". Portions of that definition actually state duties that the law imposes on a licensed pharmacist, and, therefore, they are revised as duties. See §§ 12-505 and 12-506 and the revisor's notes to those sections. In addition, present Art. 43, § 250(a) introduces the elements of the "practice of pharmacy" with the words "is the practice that may include". After researching this language, the Commission determined that it was intended to mean simply that any listed element could stand on its own as being the practice of pharmacy. See the revisor's note to § 12-101(j) on pages 401 and 402.

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The present law is silent as to what is a quorum of the State Board of Pharmacy. The Board's rules and regulations establish a quorum for its formal hearings, but are silent as to a quorum to do business. Because, in practice, the Board requires a majority of its members then serving to do business, the Commission filled the gap in the present law by adding an express quorum provision in § 12-204(a). See the revisor's note to that subsection at line 21135 on page 407.

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In § 12-206, the Commission deleted the second sentence of present Art. 43, § 268(e), which contradicts present Art. 43, § 259 and other independent provisions of law. See the revisor's note to § 12-206 beginning at line 21253 on page 410.

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In § 12-302, the Commission deleted the obsolete and unnecessary references in present Art. 43, § 261 to "drugstore experience" and nondiscrimination against night school students. See the revisor's note to § 12-302 on pages 411 and 412.

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In § 12-303 the Commission deleted the ambiguous and impractical requirement of present Art. 43, § 261(a) that an application for a license to practice pharmacy be submitted "at least ten days before any stated meeting of the Board".

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See the revisor's note to § 12-303 beginning at line 21408 on page 413. 1204

Present Art. 43, § 266C requires that a license to practice pharmacy be renewed "every two years". In practice, that language is interpreted to mean that all those licenses expire in even-numbered years. As revised, § 12-308 reflects that practice. See the revisor's note to § 12-308 beginning at line 21648 on page 417. 1206
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Present Art. 43, § 266A(c)(1)(xi), which prohibits advertising claims of professional superiority, is revised in § 12-311(b)(18). The present provision is partially unconstitutional. Therefore, the unconstitutional portions have been deleted. See the revisor's note to § 12-311(b)(18), which begins at line 21865 on page 422. 1212
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Present Art. 43, § 268(b) specifies qualifications that literally apply to applicants for a pharmacy permit but not to a permit holders. However, many of those provisions speak to the manner of conducting of a pharmacy, indicating that they were intended to apply to both applicants and permit holders. The revision of that present language, therefore, makes the standards applicable to both. See § 12-403 and the revisor's note to that section, on pages 426 through 428. See also §§ 12-601 through 12-603, which appear on pages 447 through 461, where the Commission applied similar analysis. 1218
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Present Art. 43,, § 268(b)(g) presented the Commission with a difficult problem that is discussed fully in the paragraph that begins at line 22138 on page 427. In short, present Art.. 43, § 268(b)(g) incorporates by reference a portion of Art. 43, § 266A that was repealed in 1978. The Commission, therefore, faced the task of, first, determining the legislature's intent and, then, giving it effect. 1227
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The first sentence of Art. 43, § 249, if taken literally, would outlaw the operation of many of the existing pharmacies in this State. In § 12-501, on page 434, therefore, the Commission deleted the archaic language that would lead to that result. See the revisor's note to § 12-501, beginning at line 22471. 1234
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The source law for §§ 12-503 and 12-504 could be interpreted to mean that the Board must suspend a pharmacy permit for even the most minor violations of certain standards for cleanliness of and equipment in a pharmacy. Because the legislature's intent in enacting the present provisions seems to have been to empower the Board to act, rather than to force the Board to act, the revision of those 1239
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sections states that the Board "may" suspend a permit for a violation of the standards. See the revisor's notes to §§ 12-503 and 12-504, which appear on pages 436 and 437, respectively.

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Present Art. 43, § 254A, which contains requirements for labeling prescription medicines, was amended in 1979 to extend to dentists, physicians, podiatrists, and veterinarians. However, that amendment left the law unclear as to which of the requirements apply solely to pharmacists. In § 12-510, the Commission extensively reorganized present Art. 43, § 254 to make those relationships clear. See § 12-510 and the revisor's note to that section, pages 444 through 446.

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Present Art. 43, § 270A refers to "dangerous drugs (as that term is defined in Article 27 of this Code, subtitle 'Health -- Dangerous Drugs')". However, that subtitle was repealed in 1970 and its replacement does not include the term "dangerous drugs". In § 12-602, therefore, the Commission substituted new language that carries out the legislative intent behind the use of the obsolete term. See the revisor's note to § 12-602, on pages 455 through 457, which explains the proposed resolution of this and another, somewhat similar, problem that the Commission confronted in attempting to revise present Art. 43, § 270A.

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In § 12-707, the Commission proposes a substantive change in the criminal penalties in the present pharmacy law, which are inexplicably diverse, in many cases disproportionate, and incomplete. See the Note to the General Assembly that begins at line 24047 on page 466 of the bill for a complete discussion of this proposed substantive change.

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Title 13. Physical Therapists.

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Title 13 contains provisions governing the State Board of Physical Therapy Examiners and regulating the practice of physical therapy and limited physical therapy in this State.

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The reference in present Art. 43, § 606(f) to experts and consultants being "paid out of funds of the Board" is deleted as inaccurately implying that the Board has its own funds. See § 13-204(d)(2) and its revisor's note at page 480, lines 24767-72.

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Present Art. 43, § 610(a)(1)(i) and (2) contains vague references to an applicant providing the Board with evidence of graduation from clinical training. Since an individual completes but does not graduate from clinical training, §

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13-305(a)(1)(ii) and (b)(1)(ii) are revised to state 1286
expressly that an applicant must submit evidence of 1287
"completion" of this training to the Board. See page 487, 1288
lines 25126-33.

Title 14. Physicians.

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Title 14 governs the State Board of Medical Examiners, 1293
the Commission on Medical Discipline of Maryland, and the 1294
licensing of physicians. This title is unique in that there 1295
are two entities -- the Board and the Commission -- that 1296
govern the practice of medicine. All of the other health
occupations operate under one governing entity. 1297

Title 14 does not include those provisions relating to 1299
the practice of medicine that do not in some way involve the 1300
Board or the Commission on Medical Discipline. 1301

Present Art. 43, § 121(10) imposes a duty on the Board 1303
to report certain conduct to the Commission. However, the 1304
scope of these requirements is illogical -- e.g., the Board 1305
must report a ground for license suspension but the present 1306
law is silent regarding grounds for placing an individual on 1307
probation. Therefore, the Code Commission revised this
provision in more general language. See § 14-205(b)(1)(iv)
on page 517 and the accompanying revisor's note on page 518, 1308
lines 26738-43. 1309

Present Art. 43, § 122(b)(1) uses the phrase "resident 1311
physician, intern, or student or equivalents". The Code 1312
Commission substituted the language "medical student or an 1313
individual in a postgraduate medical training program that 1314
is approved by the Board" for that phrase to conform to
practice and modern terminology. See the revisor's note to 1315
§ 14-302(1) on pages 520-521, lines 26863-68. See also the 1316
revision of present Art. 43, § 123 in § 14-305 and 14-306 on 1317
pages 523-526 and the accompanying revisor's notes for a
similar substitution. 1318

Present Art. 43, § 122(b) provides a license exception 1320
for certain types of federal employment. In light of 1321
practice, the Code Commission substituted a general 1322
reference to federal employment. See the revisor's note to
§ 14-302(3) on page 521, lines 26872-74. 1323

Present Art. 43, § 122(b)(4) provides a license 1325
exception for certain physicians who reside in a 1326
"neighboring jurisdiction". The Code Commission substituted 1327
"state adjoining this State" for "neighboring jurisdiction"
for clarity. See the revisor's note to § 14-302(5) on page 1328

Present Art. 43, § 122(b)(8) provides a license exception for two categories of individuals with psychotherapy experience. When one of these categories was added by Ch. 410, Acts of 1978, the qualifying phrase "while under the supervision of a licensed psychiatrist" was placed at the end of present Art. 43, § 122(b)(8). Based on the purpose paragraph of Ch. 410, Acts of 1978 and discussions with the Board, the Code Commission determined that the supervision of a licensed psychiatrist was intended to be required for both categories, and the revision recognizes that intent. See the revisor's note to § 14-302(6) on page 521, lines 26883-89.

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Present Art. 43, § 123(3) provides that certain applicants must have a degree of doctor of medicine. The Code Commission added the words "or its equivalent" because some foreign medical schools use terms other than "doctor of medicine" to describe the medical degrees they grant. See the revisor's note to § 14-305 on page 525, lines 27073-76.

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Present Art. 43, § 125 provides for licensing on special examination of applicants of conceded eminence and authority. The Code Commission added as express the implied requirement that the applicant must have been authorized to practice medicine in another jurisdiction. See the revisor's note to § 14-317(2) on page 537, lines 27684-85.

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Present Art. 43, § 130(h)(4) provides for action by the Commission on Medical Discipline if a physician enters a plea of nolo contendere or guilty to a crime involving moral turpitude or is convicted of a crime involving moral turpitude. After consulting with the Board and the Commission on Medical Discipline, the Code Commission added the phrase "whether or not any appeal or other proceeding is pending to have the conviction or plea set aside" for clarity. See the revisor's note to § 14-504(6) on page 548, lines 28244-46.

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Present Art. 43, § 130(h)(6)(i) provides for action by the Commission on Medical Discipline against an individual who "is addicted to the illegal use of a controlled dangerous substance". The Code Commission deleted the illogical phrase "illegal use of" because the apparent legislative intent is that any addiction is a ground for action by the Commission on Medical Discipline. See the revisor's note to § 14-504(9) on page 548, lines 28250-52.

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Present Art. 43, § 130(r) provides for civil immunity for certain individuals who act on an allegation made to the

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Commission on Medical Discipline. In light of the fact that 1369
allegations may also be made to the Medical and Chirurgical 1370
Faculty under present Art. 43, § 130(g), the Code Commission
added a reference to allegations made to the Faculty. See 1371
the revisor's note to § 14-511 on page 557, lines 28706-07. 1372

Title 15. Podiatrist. 1375

Title 15 includes the provisions that govern the State 1377
Board of Podiatry Examiners and that regulate the practice 1378
of podiatry in this State. The Board is empowered to 1379
license podiatrists and podiatric assistants.

Present Art. 43, § 482(d)(2) provides that a member of 1381
the Board of Podiatry Examiners "who is absent without 1382
adequate reason from two successive Board meetings shall 1383
cease to be a member". As in § 4-202, concerning dentistry,
the Commission restated that language in § 15-202 to provide 1384
that the Governor "shall remove a member" who is "absent 1385
from two successive Board meetings without adequate reason". 1386
See the revisor's note to § 15-202, beginning at line 29484, 1387
on page 572.

When read in context with other provisions in the 1389
present podiatry law, the introductory phrase of present 1390
Art. 43, §493(a) provides a standard for the Board in 1391
setting fees. However, read in isolation, it seems to have 1392
another meaning. The Commission, therefore, revised that
phrase in § 15-206(a)(2) in a way that clearly states a 1393
standard with which the Board is to comply. See the 1394
explanatory paragraph that begins at the top of page 576.

Present Art.43, § 493 indicates that the Board "may 1396
suspend" a license that is not renewed. Because this 1397
language is potentially misleading, the Commission in § 1398
15-308 used the more appropriate term "expires" to describe
what happens to a license that is not renewed. See the 1399
revisor's note to § 15-308, on page 583. 1400

Present Art. 43, § 481(c)(1) provides that a licensed 1402
podiatrist may use no title other than "podiatrist". 1403
However, in practice, podiatrists use other titles as well. 1404
Therefore, on page 594, in § 15-401, the Commission used new 1405
language that allows for modern practice while giving effect
to the legislative intent behind present Art. 43, § 1406
481(c)(2), i.e., that a podiatrist may not use a title that 1407
misleads the public into believing that the podiatrist is a 1408
physician.

Present Art. 43, § 491 bans all "display advertising" 1410

by a podiatrist, with six very narrowly defined exceptions. 1411
 That section is unconstitutional under several decisions of 1412
 the United States Supreme Court, and the Commission 1413
 therefore deleted it. See the General Revisor's Note to
 Title 15, beginning at line 30762 on page 597. 1414

Title 16. Psychologists.

Title 16 consists of the provisions that govern the 1417
 State Board of Examiners of Psychologists and the 1419
 certification of individuals as psychologists. Title 16 1420
 varies from most of the other titles in the Health 1421
 Occupations Article in that it involves certification rather 1422
 than licensing. See Pitts v. State Board of Examiners of 1423
Psychologists, 222 Md. 224 (1960).

Present Art. 43, § 622 indicates that the psychologist 1425
 members of the Board must have at least 5 years of 1426
 professional experience at the time they are appointed. 1427
 That requirement follows language that could be read to
 limit its application to the initial appointees to the Board
 -- i.e., those appointed in 1957. However, in practice, the
 requirement has been interpreted to apply to all
 psychologists subsequently appointed to the Board. The
 revision of present Art. 43, § 622 in § 16-202, on page 600, 1428
 therefore, expressly states that all psychologist appointees 1429
 must have at least 5 years of experience. 1430
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Present Art. 43, § 635 requires the Board to publish a 1434
 roster of certified psychologists during "June of each 1435
 year". Because of the date on which the results of the 1436
 annual certification examination become available, this 1437
 requirement is impractical, and not honored in practice,
 since meeting it would entail omitting all the names of
 individuals certified for the first time in that year. The
 Commission therefore substituted the more general reference
 "annually" in its revision of § 16-308 on pages 612 and 613. 1438
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In § 16-312(7), the Commission substituted a reference 1442
 to violating the code of ethics adopted by the Board for the 1443
 present reference in Art. 43, § 636(b)(3) to being "guilty 1444
 of unprofessional conduct as defined by the rules 1445
 established by the Board". In practice, the Board's rules
 and regulations have established that "unprofessional
 conduct" in present Art. 43, § 636(b)(3) means a violation
 of the code of ethics. See COMAR 10.36.01.09. The new
 language thus eliminates an unnecessary ambiguity in the
 Code. See the revisor's note to § 16-312(7), at line 31819
 on page 617. 1446
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Present Art. 43, § 641, which provides for review of the Psychologists' Certification Act on a date or dates long since past, is deleted as obsolete. The reasoning behind that deletion is described in Part IV. B. of this report and in the General Revisor's Note to Title 16 on page 622.

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Title 17. Sanitarians.

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Title 17 governs the State Board of Sanitarian Registration, which certifies registered sanitarians and sanitarians in training. This title and Title 16 are unique since they deal with a "certification" process as opposed to a "licensing" process. See page 711, lines 36689-706 of the General Revisor's Note to the Health Occupations Article for a discussion of the differences between licensing and certification. See also the revisor's note to § 17-301 on page 631, lines 32556-65.

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Present Art. 43 § 726(c) provides that the Governor may remove a Board member "with the advice of the Secretary" and "after due notice and a hearing". The Commission deleted the language "with the advice of the Secretary" because the Governor's constitutional power may not be modified by statute and also deleted the reference to "due process and a hearing" as unnecessarily repetitive of constitutional provisions. See the revisor's notes to § 17-202 on page 627, lines 32322-33.

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The Commission deleted the reference to an annual July meeting in present Art. 43 § 726(d)(6) in light of practice. See the revisor's note to § 17-203 on page 627, lines 32367-68.

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Present Art. 43 § 727 speaks of an applicant having "experience satisfactory" to the Board. The Commission substituted the language "that meets the standards set by the Board" for "satisfactory" to clarify that the Board has a duty to set standards. See the revisor's notes to § 17-302 on pages 632-633, lines 32627-29 and § 17-306 on page 637, lines 32849-51.

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Present Art. 43 § 734 allows the Board to make reciprocal agreements for waiver of examinations with other states but does not provide a mechanism by which an applicant qualifies for this examination waiver. To fill this gap in the law, the Commission added the language used for similar provisions in other health occupations. See the revisor's note to § 17-307 on page 638, lines 32888-93.

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<u>Title 18. Social Workers.</u>	1493
Title 18 contains the provisions governing the State Board of Social Work Examiners and regulating the practice of social work in this State.	1495 1496
The present definitions of "social worker", "social work", and "social work practice" in Art. 43, § 860(c), (d), and (e) are combined into a new definition of "practice social work" in § 18-101(c) to combine the overlapping elements of these present definitions into the uniform structure used in Titles 2 through 19. See pages 650-651, lines 33553-94.	1498 1499 1500 1501 1502
In § 18-203(a), the reference to "secretary" is added to state expressly that there is a secretary of the Board. This addition is based on the mention of express duties of this officer in the present law. See page 656, lines 33862-64.	1504 1505 1506
In § 18-301(b), present Art. 43, § 861(a), (b), and (c) -- which are presently drafted as exemptions from the entire title -- are revised as license exceptions to give effect to the apparent intent behind the law. See page 660, lines 34040-45.	1508 1509 1510
The eighth sentence of present Art. 43, § 868(d), which provides for the suspension of a license if the licensee fails to renew, is deleted as misleading in light of the references to a license expiring in the first three sentences of present Art. 43, § 868(d). See page 668, lines 34450-55.	1512 1513 1514 1515
<u>Title 19. Speech Pathologists.</u>	1518
Title 19 contains the provisions that govern the State Board of Examiners for Speech Pathologists and regulate the practice of speech pathology in this State.	1520 1521
Present Art. 43, §§ 791 through 808A govern both speech pathologists and audiologists. The provisions that relate to audiologists are revised in Title 2. See the General Revisor's Note to Title 19 on page 710, lines 36627-33.	1523 1524 1525
In § 19-201, the phrase "in the Department" is added to avoid any question of jurisdiction over the Board. See page 679, lines 35070-75.	1527 1528
In § 19-202(a)(2), the ambiguous reference to all members of the Board holding "valid licenses" is revised to	1530 1531

clarify that members need to be licensed in their own
respective professions, not necessarily as a speech
pathologist. See page 682, lines 35207-12. 1532
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In § 19-202(c)(5), "participates" is substituted for
"participated" to correct a technical error in Ch. 702, Acts
of 1980. After consultation with the Department, the
Commission determined that there was no intent to
distinguish this board from the others insofar as the
quaifications for serving as a consumer representative are
concerned. See pages 682-683, lines 35228-37. 1535
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In § 19-205, the term "code of ethics" is substituted
for "ethical standards" to conform to terminology used in
practice and in § 19-313(10). See page 685, lines
35362-65. 1541
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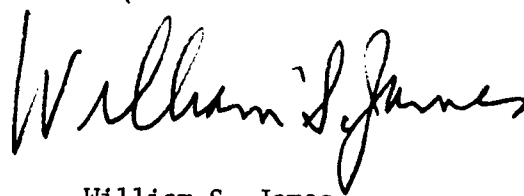
In § 19-301(b), as in § 2-301(b), the present
exemptions from the title are revised as license exceptions
to give effect to the intent behind the law. See page 688,
lines 35506-13. 1545
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In § 19-302(c)(1)(ii), an additional educational
requirement for a license applicant is added to conform to
Board practice. The addition allows an applicant to qualify
for a license by having a master's degree, or its
equivalent, in a subject other than speech pathology along
with a certain number of speech patholgy courses. See page
689, lines 35577-82. 1549
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The reference in present Art. 43, § 798(a) to the Board
suspending a license if not renewed within 30 days conflicts
with the second sentence of present Art. 43, § 795(a), which
provides that the license expires 1 year after its issuance.
In conformance with Board practice, the Commission resolved
this conflict to state expressly that a license expires at
the end of its term. See Page 696, lines 35911-19. 1555
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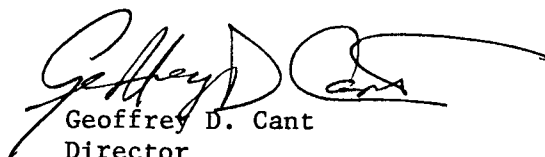
Present Art. 43, § 791(8) defines "unethical conduct",
but, except for one variation, that term does not appear
elsewhere in the present law. Therefore, the Commission
revised present Art. 43, § 791(8) as substantive provisions
in § 19-313 (5) through (10). See page 702, lines 36210-26. 1562
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Respectfully submitted, 1568



William S. James
Chairman

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Geoffrey D. Cant
Director

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Appendix A

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The following is a list of sections that the Commission believes require legislative attention.

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Section

Line number

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1-101(e)	305	1596
2-313	1875	1597
2-314(a)	1958	1598
3-202(g)	2650	1599
3-308	3447	1600
Title 3 G.R.N.	3930	1601
"	3959	1602
"	4017	1603
4-101(1)	4326	1604
4-102(c)	4386	1605
4-202	4623	1606
4-204	4724	1607
4-206(b)	4833	1608
4-301	4968	1609
4-309	5640	1610
4-313(c)	5876	1611
4-403	6579	1612
4-501	6811	1613
4-502(d)	6900	1614
"	6941	1615
4-606	7244	1616
6-101(m)	8895	1617
6-301(b)	9428	1618
6-302	9543	1619
6-308	9926	1620
6-309	9969	1621
6-310	10052	1622
6-315	10408	1623
6-404	10819	1624
"	10826	1625
"	10843	1626
"	10878	1627
6-602	11108	1628
7-205	11983	1629
"	11991	1630
"	12003	1631
7-302(b)	12282	1632
7-601(b)	13487	1633
7-604(b)	13607	1634
7-605(a)	13688	1635
7-611	13815	1636

7-703(d)	13953	1637
7-710	14104	1638
8-204(c)	14585	1639
8-309	15134	1640
9-101(h)	15837	1641
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